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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,893	09/28/2001	Claus Erdmann Furst	45900-00064	1329
30593	7590	11/02/2005	EXAMINER	
HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 8910 RESTON, VA 20195				MICHALSKI, JUSTIN I
ART UNIT		PAPER NUMBER		
2644				

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/964,893	FURST ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Justin Michalski	2644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 13 April 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,5,7,17,18,36 and 38 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,5,7,17,18,36 and 38 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1, 5, 7, 17, 18, 36, and 38 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 5, 7, 17, 18, 36, and 38 rejected under 35 U.S.C. 103(a) as being unpatentable over Martin (US Patent 5,796,848) in view of Ariyoshi (US Patent 5,212,764).

Regarding Claim 1 Martin discloses a microphone assembly of a hearing aid comprising a microphone assembly casing (6) having a sound inlet port (15), a transducer for receiving acoustic waves through the sound inlet port (1), and for converting received acoustic waves to analog signals (18), said transducer being positioned within the microphone assembly casing, an electronic circuit positioned within the microphone assembly casing, said electronic circuit comprising a signal path defined by a cascade of a pre amplifier (8) for amplifying analog audio signal from the transducer, and a sigma-delta modulator for providing digital signals (7). Martin does not disclose the microphone assembly

further comprises filter means in the signal path between the pre-amplifier and the sigma-delta modulator to prevent low frequency components from reaching the sigma-delta modulator.

Ariyoshi discloses an audio device (Fig. 1) with a transducer pre-amplifier and sigma delta modulator including a filter means (band pass filter 13) in the signal path between the pre-amplifier (11) and the sigma-delta modulator (13) to prevent low frequency components from reaching the sigma-delta modulator.

Ariyoshi discloses that the band pass filter extracts a desired of the signal spectrum (Col. 4, lines 57-62). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a filter means in the signal path between the pre-amplifier and the sigma-delta modulator to prevent low frequency components from reaching the sigma-delta modulator in order to pass only desired signal components to the sigma-delta modulator (A/D converter) for more efficient processing by filtering out undesired signals.

Regarding Claim 5, although Ariyoshi discloses a bandpass filter (13), Ariyoshi does not disclose a high pass filter. It is notoriously well known in the art that a band pass filter can be made by a low pass and high pass filter in series. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a high pass filter in order to filter and pass only desired audio signals.

Regarding Claim 7, it is well known in the art that circuits can be formed on integrated circuits to create a smaller circuit. Therefore it would have been

obvious to one of ordinary skill in the art at the time the invention was made to form the circuit on an integrated circuit in order to create a more compact circuit.

Regarding Claim 17, Martin further discloses the microphone assembly 6 is connected to a signal processor, which inherently teaches a digital signal processor as the signal was converted to a digital signal prior in the A/D converter 7.

Regarding Claim 18, Martin further discloses the unit as a digital hearing aid (abstract).

Regarding Claim 36, Martin further discloses filter 13 had an upper critical frequency of 8 kHz (Col. 7, lines 47-52) which inherently is a filter for passing a frequency band.

Regarding Claim 38, Martin further discloses the device is integrated on a monolithic integrated circuit (see Martin Claim 9).

### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin Michalski whose telephone number is (571)272-7524. The examiner can normally be reached on M-F 7-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on (571)272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2644

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JIM

  
October 28, 2005



VIVIAN CHIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600